

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

KEVIN W. DUNIGAN,

Plaintiff,

vs.

ENCORE PRODUCTIONS, INC., et al.,

Defendants.

2:07-cv-01396-PMP-PAL

**REPORT OF FINDINGS AND  
RECOMMENDATION**

(IFP App - #1)

Plaintiff Kevin W. Dunigan submitted an Application to Proceed *in Forma Pauperis* (#1) and a Civil Rights Complaint on October 17, 2007. Dunigan is proceeding in this action *pro se* and has requested authority pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis*. This proceeding was referred to this court by Local Rule IB 1-9.

Pursuant to 28 U.S.C. § 1914(a) a filing fee of \$350.00 is required to commence a civil action in federal district court. The court may authorize the commencement of an action “without prepayment of fees and costs or security therefor, by a person who makes affidavit that he is unable to pay such costs or give security therefore.” 28 U.S.C. § 1915(a).

Dunigan states in his application that he currently has only \$100 in cash or bank accounts. However, he claims he is presently employed and earns a gross annual salary of \$35,000 or

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1 approximately \$27,000 net annual income, with no dependents. The Court finds that Plaintiff has  
2 sufficient income and assets to pre-pay the costs and fees of this action.

3 **IT IS THEREFORE RECOMMENDED** that the Application to Proceed *in Forma Pauperis*  
4 (#1) be **DENIED**, that Plaintiff be required to pay the filing fee of three hundred fifty dollars (\$350.00),  
5 and that failure to do so within the time set by the district judge should result in the dismissal of this  
6 action.

7 **IT IS FURTHER RECOMMENDED** that the Clerk of the Court should retain the Complaint.

8 **NOTICE**

9 These findings and recommendations are submitted to the United States District Judge assigned  
10 to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within ten days after being served with  
11 these findings and recommendations, any party may file written objections with the court. Pursuant to  
12 Local Rule of Practice (LR) IB 3-2(a), any party wishing to object to the findings and recommendations  
13 of a magistrate judge shall file and serve specific written objections together with points and authorities  
14 in support of those objections, within ten (10) days of the date of service of the findings and  
15 recommendations. The document should be captioned "Objections to Magistrate Judge's Findings and  
16 Recommendations." The parties are advised that failure to file objections within the specified time may  
17 waive the right to appeal the District Court's Order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).  
18 The points and authorities filed in support of the specific written objections are subject to the page  
19 limitations found in LR 7-4.

20 Dated this 30th day of November, 2007.

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23 PEGGY A. LEEN  
24 UNITED STATES MAGISTRATE JUDGE  
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